

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10600 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPORATION

Versus

SURESHSINH ANDESINH VASAVA C/ PARESH J BRAHMBHATT

Appearance:

MR HARDIK C RAWAL for Petitioner

MR JS BRAHMBHATT for Respondent No. 1

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 18/06/1999

ORAL JUDGEMENT

Rule.

Mr.Brahmbhatt for the respondent waives service.

With the consent of the parties, the matter is finally heard today.

1. The Gujarat State Road Transport Corporation (hereinafter referred to as 'the corporation has filed

the present petition challenging the award dated 30.4.1998 passed by the Labour Court, Baroda in Reference (LCV) No.155 of 1995 partly allowing the reference by directing the Corporation to reinstate the respondentworkman to his original post with continuity of service and 25% of the back wages.

2. The respondent at the relevant time was serving as a conductor with the petitioner- Corporation. On 13.1.1985 when he was on duty, he issued unpunched tickets and recovered the amount of fare and did not show the sale of tickets in way bill. It was also alleged that the intention of the respondent- workman was to get back the tickets and to reissue the same. The respondent was chargesheeted and explanation was called for and after holding inquiry, the services of the respondentworkman were terminated on 17.11.1988.

3. Against the order of termination, a reference was made at the instance of the respondent- workman to the Labour Court. The Labour Court, after considering the evidence on record, recorded a finding that the alleged misconduct on the part of the respondent- workman cannot be termed as dishonesty on his part as there was no intention to defraud the Corporation. According to the Labour Court, it was a case of negligence on the part of the respondent- workman.

4. Considering the matter from this angle, the Labour Court was of the view that the punishment of dismissal was quite disproportionate to the misconduct and, therefore, passed an order of reinstatement denying 75% of the back wages. Since the Labour Court has not passed any order substituting the order of punishment of dismissal, the Corporation has filed the present petition.

5. The learned advocates appearing for the parties have left the question of punishment, to the discretion of this Court. In view of the fact that the Labour Court has found that the respondent- workman was negligent in performing his duties, I am of the opinion that if the punishment of stoppage of three increments without future effect is imposed on the respondent- workman, it would serve the ends of justice. In this view of the matter, the award dated 30.4.1998 is confirmed subject to the modification that the petitioner- Corporation will pass an appropriate order of punishment of stoppage of three increments without future effect.

The petition is accordingly allowed. Rule is

made absolute with no order as to costs. The petitioner-
Corporation to carry out the directions within eight
weeks from today.

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